

REMARKS

Claims 18-23 have been canceled without prejudice. Claims 1, 4 and 13 have been amended. Claims 1-8, 13-17 and 24 are currently pending.

The courtesy of Examiners Thaler and Nguyen in granting the undersigned a personal interview on February 9, 2006 is greatly appreciated. During that interview, the undersigned indicated that the claims are directed to the embodiment in FIGS. 32A-32B. As a result, claims 18-23 have been canceled without prejudice for being drawn to another embodiment.

First, the objection of claim 19 has been rendered moot due to the cancellation of this claim.

Second, it was agreed during the interview that the word "removably" in claim 13 is accurate because it relates to the embodiment of FIGS. 32A-32B.

Independent claim 1 stands rejected under 35 USC 102(b) as being anticipated by USP 6,146,394 to Morejohn et al. ("Morejohn") and USP 5,626,607 to Malecki et al. ("Malecki"). These rejections are respectfully traversed.

Independent claim 1 has been amended to recite a rigid covering that can be positioned in a first position where the covering exposes a portion of the flexible shaft, and in a second position where the covering completely covers the flexible shaft. A similar version of this limitation is present in claim 17 of USP 6,544,274, which Applicant submits distinguishes the claimed clamp over the prior art. In this regard, neither Morejohn nor Malecki teach or suggest this limitation. Therefore, claim 1, and claims 2-8 depending therefrom, are submitted to be in condition for allowance.

Independent claim 13 stands rejected under 35 USC 102(b) as being anticipated by USP 4,467,802 to Maslanka ("Maslanka"). This rejection is respectfully traversed.

During the interview, claim 13 was analyzed with respect to the teachings of Maslanka. The Examiners kindly suggested that claim 13 be amended to recite that the handle assembly continues to remain operable to control the opening and closing of the jaws when the rigid element is removed from the handle assembly and the gripping assembly. Applicant has added this limitation to claim 13. In contrast, the removal of any rigid element (e.g., rack elements 38 and 44, or guide channel 42) from the handle assembly 26 and the gripping assembly 10 would render the surgical instrument in Maslanka inoperable; and more specifically, the handle assembly 26 would not be able to control the opening and closing of the gripping elements 10. Therefore, claim 13, and claims 14-17 and 24 depending therefrom, are submitted to be in condition for allowance.




Next, the ~~pending~~ claims stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over certain claims from U.S. Patent Nos. 6,638,287, 6,676,676, 6,544,274 and 6,685,715. Even though Applicant does not agree with these rejections, Applicant is submitting herewith a terminal disclaimer to overcome these rejections.

* * *

Thus, it is respectfully submitted that all pending claims are now in condition for allowance.

The Examiner is invited to telephone the undersigned if there are any matters that can be resolved in a phone conversation, or if the Examiner has any other suggestions, ideas, or proposed amendments that would place this application in condition for allowance.

Respectfully Submitted,


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CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal service as First Class Mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

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By: 

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